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SENATE BILL 636

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

David Ulibarri

AN ACT

RELATING TO HEALTH CARE; REQUIRING DRUG AND ALCOHOL TESTING FOR
DIRECT HEALTH CARE PROVIDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. DRUG TESTING FOR HEALTH CARE PROVIDERS--
GROUNDS--RULEMAKING.--

A. Any health care provider hired to provide direct
care to patients in a health facility shall be tested for
illegal drug use prior to employment.

B. At least once every calendar year after hire,
while working, a health care provider providing direct care to
patients in a health facility shall be tested for drug and
alcohol abuse.

C. A health care provider providing direct care to
patients in a health facility who is reasonably suspected of

1 abusing drugs or alcohol while working shall undergo drug
2 testing without prior notice to the health care provider.

3 D. The department of health shall promulgate rules
4 to establish:

5 (1) when a health care provider is reasonably
6 suspected of abusing drugs or alcohol while working;

7 (2) the protocol governing testing for drugs
8 and alcohol;

9 (3) what persons shall be considered reliable
10 reporting parties for the purposes of this section; and

11 (4) any disciplinary action, addiction
12 interventions or fines pursuant to this section.

13 E. When promulgating rules pursuant to Subsection D
14 of this section, the department of health shall consult with
15 representatives from:

16 (1) the New Mexico medical board;

17 (2) the board of nursing;

18 (3) the New Mexico medical review commission;

19 (4) the national union of hospital and health
20 care employees; and

21 (5) the American medical association.

22 F. For the purposes of this section:

23 (1) "health care provider" means any health
24 care staff member who is licensed, certified or otherwise
25 authorized or permitted by law to provide direct unsupervised

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1 health care to a patient; and

2 (2) "health facility" means a public hospital;
3 a profit or nonprofit private hospital; a general or special
4 hospital; an entity providing services for the developmentally
5 disabled; a shelter care home; a free-standing hospice; or a
6 home health agency.

7 G. Results of drug tests made pursuant to the
8 provisions of this section shall be treated as confidential
9 medical information, and only aggregate test data shall be
10 subject to review by the department of health.

11 H. A person who in good faith reports that a health
12 care provider has been abusing drugs or alcohol while working
13 shall not be held liable for civil damages as a result of the
14 report; provided that the health care provider reported as
15 abusing drugs shall have the right to sue for damages sustained
16 as a result of negligent or intentional reporting of inaccurate
17 information or the disclosure of information to an unauthorized
18 person.